

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Igor Volynets	Team: Team # 6	CCRB Case #: 200805401	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 04/09/2008 11:09 PM	Location of Incident: § 87(2)(b)	Precinct: 40	18 Mo. SOL 10/9/2009	EO SOL 10/9/2009	
Date/Time CV Reported Thu, 04/10/2008 12:25 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 04/15/2008 10:02 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Brian Pastula	11648	943653	PSA 7
2. POM Isaac Soberal	18537	943830	PSA 7

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Mark Portelli	00718	928985	PSA 7

Officer(s)	Allegation	Investigator Recommendation
A.POM Brian Pastula	Discourtesy: PO Brian Pastula spoke rudely to § 87(2)(b)	
B.POM Brian Pastula	Abuse: PO Brian Pastula threatened § 87(2)(b) and § 87(2)(b) with the use of force.	
C.POM Isaac Soberal	Force: PO Isaac Soberal used physical force against § 87(2)(b)	
D.POM Brian Pastula	Force: PO Brian Pastula used physical force against § 87(2)(b)	
E.POM Brian Pastula	Discourtesy: PO Brian Pastula spoke rudely to § 87(2)(b)	
F.POM Brian Pastula	Abuse: PO Brian Pastula refused to provide his name and shield number to § 87(2)(b)	

Synopsis

On April 9, 2008 at about 11:00 PM, § 87(2)(b) her husband § 87(2)(b) were walking to their residence at § 87(2)(b) in the Bronx with their young children. PO Brian Pastula opened the front door for § 87(2)(b) and told her, “I did it because of your kids because I don’t fucking like you” (Allegation A). A verbal confrontation ensued, and PO Pastula making several other rude comments to § 87(2)(b) telling her “That’s why the fuck I have a warrant out for that fucking apartment.” PO Pastula additionally stated that he “felt like hitting” § 87(2)(b) (Allegation B). As § 87(2)(b) was standing in the elevator of the lobby, PO Soberal grabbed her arm and pulled her out (Allegation C). § 87(2)(b) walked up behind PO Isaac Soberal, PO Pastula grabbed his arm and yelled out for him to “get the fuck back” from his partner (Allegations D and E). § 87(2)(b) was arrested for disorderly conduct and resisting arrest and was transported to the PSA 7 stationhouse. In the stationhouse, § 87(2)(b)s mother § 87(2)(b) asked PO Pastula for his name and shield number over the phone. PO Pastula refused to provide this information (Allegation F).

§ 87(2)(g)

Summary of Complaint

§ 87(2)(b) **CCRB Statement (Encl. 10a-f)**

§ 87(2)(b) dialed 911 on April 10, 2008 on behalf of her daughter § 87(2)(b). The complaint was referred to the CCRB on April 15, 2008. § 87(2)(b) (§ 87(2)(b)-old Hispanic female, 5’0”, 123 lbs., with brown hair and brown eyes) was interviewed at the CCRB on May 2, 2008.

§ 87(2)(g)

On the evening of April 9, 2008, between 9:00 PM and 11:00 PM, § 87(2)(b) her husband § 87(2)(b) and her two young children were coming back to their home at § 87(2)(b) in the Bronx. § 87(2)(b) was wearing a red shirt, a blue jean jacket, jeans without a belt, and sneakers. § 87(2)(b) saw three uniformed officers in the lobby of the building. § 87(2)(b) forgot the key to the entrance. § 87(2)(b) stated that she had encountered these officers in the past and knew that they would not open the door for her. PO1 (Caucasian male, 5’7”, short dirty blond hair, skinny build, serious face, grayish eyes, in uniform, identified through this investigation as PO Brian Pastula) opened the front door and held it for § 87(2)(b) and her children as another resident was coming out. § 87(2)(b) walked to the lobby past PO Pastula and told the officer, “Thank you.” PO Pastula replied, “Oh, I did it for your kids because I don’t like you.” § 87(2)(b) replied, “Excuse me?” PO Pastula answered, “I said, I did it for your kids because I don’t fucking like you.” § 87(2)(b) came up to PO Pastula and said, “Why do you always gotta say something to me?” PO Pastula responded, “Because I already said it to your face. I don’t fucking like you. If you have a problem, do something.” § 87(2)(b) let her children go to § 87(2)(b) who stood several feet behind at this point.

PO2 (Caucasian male, 6’7”, bald, 140-150 lbs, with red “girlish” face/cheeks, blue eyes, in uniform, identified as PO Isaac Soberal) asked § 87(2)(b) for her identification. § 87(2)(b) told PO Soberal that her ID was upstairs and that the officers knew she lives here because they have seen her numerous times in the past. § 87(2)(b) told the officers that they could follow her upstairs to her apartment to see her ID. § 87(2)(b) walked towards the elevator. As soon as she got in the elevator, PO Soberal blocked the door from closing. One other person who § 87(2)(b) did not know, a young black male, was inside the elevator. PO Soberal grabbed § 87(2)(b) by her left bicep and tried to pull her out. § 87(2)(b) told PO Soberal to let her go and not to touch her like that because she was not getting

aggressive. She again repeated to PO Soberal that he could come upstairs and that she would show him her ID. § 87(2)(b) did not resist PO Soberal and did not move her arms. PO Pastula remained in the lobby hallway and said, "Oh she thinks she's slick. I know what she did. That's why the fuck I have a warrant out for that fucking apartment" (this comment was apparently made regarding an unrelated incident in which § 87(2)(b)'s brother § 87(2)(b) was arrested).

§ 87(2)(b) approached PO Soberal, pushed him, and told the officer to let § 87(2)(b) go. PO Pastula grabbed § 87(2)(b) by either the left or right arm and told him, "Back the fuck off from my partner two feet." § 87(2)(b) swung his arm backwards to shake free of PO Pastula's grip. PO Pastula made a motion with his hand towards his holster or nightstick. § 87(2)(b) got out of the elevator and told § 87(2)(b) to take their children because she did not want them to see what was happening. PO Soberal placed one cuff around § 87(2)(b)'s left hand. At this point, PO Pastula approached less than a foot behind PO Soberal and said, "I feel like hitting her." § 87(2)(b) was afraid that PO Pastula would strike her and extended her right arm outwards in a cautionary motion. PO Soberal successfully handcuffed § 87(2)(b) without any assistance. She complied and did not resist being handcuffed. PO Pastula went outside and called for backup. § 87(2)(b) heard PO Pastula say over the radio that she was resisting arrest. PO3 (Hispanic male in uniform, long black hair, husky build, height not recalled) stood in a corner of the lobby and did not say anything to § 87(2)(b). PO3 did not make any physical contact with either § 87(2)(b) or § 87(2)(b). PO3 gave some instructions to § 87(2)(b) in Spanish about going upstairs and retrieving § 87(2)(b)'s identification. About five marked units arrived at the scene.

PO Pastula sat in the back of an RMP with § 87(2)(b) as PO Soberal drove her to the PSA stationhouse. § 87(2)(b) told PO Pastula that she did not want him so close to her but PO Pastula still sat beside her. § 87(2)(b) told PO Pastula, "Are you happy that you arrested me in front of my kids? You're gonna leave me alone after this?" PO Pastula did not respond to her. In the stationhouse, another officer (Caucasian male, husky build, in uniform, older, about 40-50 years old, brown/graying hair, no other pedigree information recalled) approached § 87(2)(b) and asked her where she got her cuts. § 87(2)(b) informed the investigator that she used to cut herself and suffered from depression when she was younger). This officer made a looping gesture with his fingers indicating that § 87(2)(b) was crazy and said, "Check her records." In the precinct, § 87(2)(b) called her mother § 87(2)(b) on the phone. § 87(2)(b) wanted to get PO Pastula's name and badge number. PO Pastula said, "I'm not giving that over the phone." PO Pastula then grabbed the phone from § 87(2)(b) and told § 87(2)(b) "I'm not telling you nothing. You want to know more about your daughter you come over here" and hung up. After he did this, § 87(2)(b) told PO Pastula, "That's my only call. Why did you hang up?" PO Pastula responded, "Go back to the cell before I kick your ass." Later, § 87(2)(b) called § 87(2)(b) again and PO1 clicked the phone off with his fingers. § 87(2)(b) told PO Pastula that she did not understand why he was treating her this way. PO Pastula told her to answer all the questions and to mind her "fucking business." Another officer fingerprinted § 87(2)(b).

PO Pastula transported § 87(2)(b) to Central Booking, where she voluntarily signed a refusal for medical treatment. PO Pastula and two other officers then drove § 87(2)(b) to another precinct that the officers referred to as "The Castle." This precinct resembled a train station. PO Pastula again sat beside § 87(2)(b) in the rear of the police car. When § 87(2)(b) turned to him and asked where they were going, PO Pastula answered, "We're taking you to a corner to fuck you up." § 87(2)(b) was placed into a cell with two other women. Later in the evening the following day, she was placed into a bus and taken to the courthouse. She was ultimately released without seeing a judge.

Results of Investigation

§ 87(2)(b) **CCRB Statement (Encl. 11a-d)**

§ 87(2)(b) § 87(2)(b)-old Hispanic male, 5'8", 230 lbs., with black hair and brown eyes) was interviewed at the CCRB on May 2, 2008.

On April 9, 2008, at about 11:00 PM, § 87(2)(b) his wife § 87(2)(b) and their two young children walked up to the entrance of their residence at § 87(2)(b) a housing project in the

Bronx. § 87(2)(b) and § 87(2)(b) forgot their key and could not get inside the building. § 87(2)(b) was wearing a red hoodie sweatshirt, black and gray pants, and red and black sneakers. Three uniformed officers were standing in the lobby. § 87(2)(b) knocked on the door but the officers did not pay any attention to him. Ten to fifteen minutes later, PO Brian Pastula (Caucasian male, identified by name, 5'9"-6'0", brown hair, 200 lbs. or more) opened the door as someone else was coming out. § 87(2)(b) passed through holding her children with each arm and told him, "Thank you." PO Pastula then said something to § 87(2)(b) prompting her to say, "Excuse me." PO Pastula replied, "I just did it because of your kids because I don't fucking like you." § 87(2)(b) then responded, "Excuse me. Why do you always have something to say to me?" PO Pastula repeated, "I did it because of your kids because I don't fucking like you." § 87(2)(b) raised her voice and said, "You're not supposed to talk to me that way." PO Pastula continued to curse at her as she walked towards the elevator door, calling § 87(2)(b) a "black bitch." § 87(2)(b) could not articulate the other discourtesies PO Pastula used because he has a limited English vocabulary. PO Pastula spoke in a loud tone of voice.

§ 87(2)(b) proceeded to follow behind § 87(2)(b) PO Isaac Soberal (Caucasian male, 5'8", short haircut, 180-230 lbs., brown eyes, identified by nameplate) was holding the elevator door open with § 87(2)(b) inside. PO Pastula stood right behind § 87(2)(b) who was now holding the children. PO Soberal told § 87(2)(b) not to get inside the elevator. § 87(2)(b) stood about four steps away from PO Soberal. PO3 (Hispanic officer, 5'5"-5'6", dark skin, black hair, 180-185 lbs., in uniform) who stood apart in the lobby, politely instructed § 87(2)(b) to back up at least two feet from PO Soberal. § 87(2)(b) complied. At this point, PO Pastula grabbed his lower right bicep and loudly said, "Back the fuck off my partner." PO Pastula put his right hand on his holster at this point. § 87(2)(b) responded, "I'm not gonna back up because the other officer told me already nicely and I did. I'm trying to see what's going on with my wife." PO Pastula grabbed § 87(2)(b) a second and the civilian swung his arm to shake him off. § 87(2)(b) did not strike or make physical contact with PO Pastula when he swung his arm back.

§ 87(2)(b) saw PO Soberal grab § 87(2)(b)'s right bicep and take her out of the elevator. No one else was in the elevator. § 87(2)(b) responded, "This is what you want? You want me to get locked up so you could leave my family alone? Go ahead"—apparently referring to PO Pastula—and held both of her hands out to be handcuffed. PO Pastula cuffed § 87(2)(b) alone. She did not resist him in any way. PO3 instructed § 87(2)(b) to go upstairs and bring out § 87(2)(b)'s identification. PO3 spoke to § 87(2)(b) in Spanish. § 87(2)(b) complied and went up to his apartment. By the time he came back down several minutes later, five or six uniformed officers were stationed outside the house. PO Pastula, PO Soberal, PO3, and § 87(2)(b) were already gone. Someone on the street told § 87(2)(b) that § 87(2)(b) was taken to the precinct for processing.

§ 87(2)(b) was not arrested and did not receive a summons. None of the officers requested to see his ID at any point.

§ 87(2)(b) CCRB Statement

The undersigned spoke to § 87(2)(b) on May 6, 2008, at which point § 87(2)(b) scheduled an appointment May 13, 2008 to provide a statement regarding this incident. On May 13, 2008, § 87(2)(b) missed this appointment and a "missed appointment" letter was placed to her address. On May 15, 2008, the undersigned reached § 87(2)(b) and she indicated that she wished to withdraw her portion of the complaint because she did not have time to make an official statement. In a taped conversation that was reviewed by ASI Katherine O'Connor, § 87(2)(b) confirmed that she was not coerced either by the CCRB or the NYPD in making her decision to withdraw. A "complaint withdrawn" letter was sent to § 87(2)(b) and will be added to the case file upon receipt.

MOS Statements

PO Brian Pastula UF 61 (Encl. 13a-b)

According to his complaint report, PO Pastula stated that at the time and place of occurrence, he attempted to issue § 87(2)(b) a summons for disorderly conduct for creating a public alarm and starting threats. § 87(2)(b) refused to provide her information and PO Pastula attempted to place her under arrest. § 87(2)(b) resisted a lawful arrest by flailing her arms and refusing to be handcuffed.

PO Brian Pastula OLBS (Encl. 14a-b)

According to the narrative in § 87(2)(b)'s OLBS, PO Pastula stated that at the time and place of occurrence, he attempted to issue § 87(2)(b) a summons for § 87(2)(b) for creating a public alarm and starting threats. § 87(2)(b) refused to provide her information and PO Pastula attempted to place her under arrest. § 87(2)(b) resisted a lawful arrest by flailing her arms and refusing to be handcuffed.

PO Brian Pastula Memo Book (Encl. 15a-c)

At 11:09 PM on April 9, 2008, PO Pastula arrested a female for § 87(2)(b)

PO Brian Pastula CCRB Statement (Encl. 16a-c)

PO Brian Pastula § 87(2)(b)-old Caucasian male, 6'1", 180 lbs., with brown hair and blue eyes) was interviewed at the CCRB on May 21, 2008. On April 9, 2008, PO Pastula was working the hours of 1800-0235. He was working on a PSA patrol assignment and was on foot. He was dressed in uniform and was working with PO Soberal.

On the evening of April 9, 2008, PO Pastula and PO Soberal were stationed in the lobby of § 87(2)(b) a NYCHA housing building in the Bronx. At about 11:09 PM, § 87(2)(b) approached the building with a small child and a male companion, identified as § 87(2)(b). She did not have a key with her. PO Pastula decided to open the lobby door for her because he stated that it was raining outside. PO Pastula recognized § 87(2)(b) as a resident of the building and told her, "I opened the door for your child. I don't like you." PO Pastula denied telling § 87(2)(b) "I don't fucking like you." § 87(2)(b) got very angry and started yelling something to the extent of, "Fuck you, you white cops. You white crack. I can't stand you white people." § 87(2)(b) was speaking in a very loud tone and behaved in an angry and tumultuous manner, waving her hands back and forth as she spoke. PO Pastula made a verbal response to § 87(2)(b) but did not recall exactly what he said. According to PO Pastula, PO Soberal was the responding officer because he has a "cooler head" than PO Pastula. PO Pastula denied telling § 87(2)(b) "That's the fuck why I have a warrant out for that fucking apartment."

PO Soberal told § 87(2)(b) to calm down a total of six to twelve times but she refused and got louder. The elevator with several individuals arrived with several individuals inside. PO Soberal informed § 87(2)(b) that she would be issued a summons if she didn't stop. § 87(2)(b) said something to the extent of, "I'm going to get this bitch ass nigger" or, "I'm gonna have somebody get this bitch ass nigger," which PO Pastula interpreted as a threat against him. § 87(2)(b) also made a reference for someone named § 87(2)(b). PO Soberal asked § 87(2)(b) for her identification. PO Pastula did not recall how § 87(2)(b) responded and specifically did not remember if she said that her ID was upstairs in her apartment. PO Pastula never said that he "felt like hitting" § 87(2)(b). PO Pastula did not motion towards his weapon at any point during the incident.

§ 87(2)(b) who up to this point stood several feet away, stepped "within inches" behind PO Soberal's back as the officer was facing § 87(2)(b). PO Pastula feared for PO Soberal's safety and instructed § 87(2)(b) to step back. PO Pastula admitted that might have told § 87(2)(b) to "back the fuck away" from PO Soberal because PO Pastula was very angry, though he could not recall with certainty. § 87(2)(b) turned around and refused to stand back. PO Pastula pushed him in the chest. § 87(2)(b) said something to the effect of, "Don't fucking touch me" and swiped PO Pastula's arm away. PO Pastula stated that he would usually throw someone who swiped his arms away right on the ground but felt that he did not need to use that amount of force in this situation. PO Pastula did not recall if § 87(2)(b) and PO Soberal exchanged any words during this instance.

When § 87(2)(b) failed to produce any ID, PO Soberal told her he would be placing her under arrest. § 87(2)(b) willingly stepped out of the elevator and said, "Go ahead. Arrest me." PO Soberal did not have to force her to get out of the elevator. § 87(2)(b) placed her hands behind her back and PO Soberal attempted to cuff her. § 87(2)(b) raised one of her arms and would not place it back. PO

Soberal had to forcibly pull her arm back to cuff her. PO Pastula did not assist PO Soberal in handcuffing § 87(2)(b). The officers called Sgt. Portelli to the scene after placing § 87(2)(b) in cuffs.

Sgt. Portelli arrived and instructed the officers to arrest § 87(2)(b) because she did not have any identification.

PO Pastula transported § 87(2)(b) to the PSA stationhouse and subsequently to Central Booking. § 87(2)(b) abruptly switched her behavior and started acting in a reasonable manner after being processed. She even thanked PO Pastula for holding the door of the police car open for her. PO Pastula denied telling § 87(2)(b) to “mind her fucking business” or to “go back to the fucking cell” in the precinct. PO Pastula also denied telling § 87(2)(b) that he was going to “kick her ass.” PO Pastula stated that Sgt. Portelli dealt with § 87(2)(b) in the stationhouse because she didn’t want PO Pastula to fingerprint her. PO Pastula spoke to a female who may have been § 87(2)(b)’s mother § 87(2)(b) on the phone in the precinct. § 87(2)(b) asked him for his name and shield number. PO Pastula told § 87(2)(b) “If you want my name and shield number, you can come to the precinct and get it.” PO Pastula stated that he refused to provide his information because he did not know who § 87(2)(b) was. PO Pastula additionally denied telling § 87(2)(b) “We’re taking you to the corner to fuck you up.”

PO Pastula believes that § 87(2)(b) suffers from some type of mental disorder, based on her unruliness during the encounter. He stated that Bronx Central Booking listed that she was taking some medication, potentially for a bipolar disorder, on her medical treatment form.

According to PO Pastula, § 87(2)(b)’s charges of § 87(2)(b) were dismissed by the court.

PO Isaac Soberal Memo Book (Encl. 17a-b)

On April 9, 2008 at 11:10 PM, a Hispanic female (18-22 years old, 5’6”, 140 lbs.) was placed under arrest by PO Pastula for § 87(2)(b) at § 87(2)(b). The defendant stated, “Call § 87(2)(b). This bitch ass nigga is going to get what’s coming to him. Watch you going to get yours fucking white boy.”

PO Isaac Soberal CCRB Statement (Encl. 18a-b)

PO Isaac Soberal § 87(2)(b)-old Hispanic male, 6’0”, 220 lbs., with brown hair and brown eyes) was interviewed at the CCRB on May 22, 2008. On April 9, 2008, PO Soberal was working the hours of 1800-0235. He was dressed in uniform and was partnered with PO Pastula. He was working on foot.

On the evening of April 9, 2008, PO Soberal and PO Pastula were conducting a vertical at § 87(2)(b) in the Bronx, a location that is subject to the rules of the NYCHA. § 87(2)(b) walked up to the front door of the lobby with several small children. § 87(2)(b) was standing near § 87(2)(b). PO Pastula opened the door and plainly told § 87(2)(b) either, “I let you in because of your child” or “I did this because you have your kids with you.” § 87(2)(b) got angry and told PO Pastula, “You fucking white people. I can’t fucking stand you. You’re always fucking with me.” § 87(2)(b) proceeded to walk inside and wait for the elevator. She became loud and boisterous. The elevator arrived and approximately eight to twelve people got out. § 87(2)(b) did not have any verbal contact with these people. § 87(2)(b) got inside the elevator and started making threatening statements, saying in Spanish, “Call § 87(2)(b). This bitch ass nigga is gonna get what’s coming to him.” § 87(2)(b) was looking at PO Soberal in the elevator when she made this comment but was apparently referring to PO Pastula. PO Soberal decided to issue § 87(2)(b) a summons for disorderly conduct, since she was threatening violent behavior. PO Soberal heard PO Pastula tell § 87(2)(b) to “get back.” PO Soberal described this as a tense situation and stated that it was possible that PO Pastula may have told § 87(2)(b) to “get the fuck back two feet,” though he could not recall this with certainty. § 87(2)(b) came up several feet or closer behind PO Soberal and PO Soberal told him, “There’s nothing you can do now. This is between us and her.” § 87(2)(b) complied and walked away. § 87(2)(b) was cordial and quiet with PO Soberal and did not raise his voice at any point. PO Pastula later told PO Soberal that he pushed § 87(2)(b) back because the civilian was coming close to PO Soberal’s gun. PO Soberal did not see this happen. PO Soberal asked § 87(2)(b) to step

out of the elevator and she refused. She finally stepped out approximately three minutes later. PO Soberal did not make any physical contact with her at this point.

PO Soberal and PO Pastula asked § 87(2)(b) for her identification multiple times during the encounter. § 87(2)(b) said that her ID was upstairs and that she would not get it. § 87(2)(b) took her jacket off, and said, "I'm not giving you my ID. Take me to jail. Lock me up." § 87(2)(b) also refused to go upstairs to their apartment to retrieve the ID. PO Soberal requested that Sgt. Portelli to come to the scene and the sergeant arrived five to ten minutes later. § 87(2)(b) was placed under arrest because she did not have any identification. PO Soberal cuffed the left arm but § 87(2)(b) continued yelling at PO Pastula and pulled away, pointing at PO Pastula with her right hand. After several attempts, § 87(2)(b) placed her right hand back and PO Soberal succeeded in cuffing her.

At no point did PO Pastula make any discourteous comments to the extent of "I have a fucking warrant for that fucking apartment" or "I feel like hitting her."

Sgt. Portelli and several other officers transported § 87(2)(b) to the stationhouse. PO Soberal did not go to the stationhouse with the officers and did not have any further interaction with either § 87(2)(b) or § 87(2)(b).

Sgt. Mark Portelli Memo Book (Encl. 19a-c)

At 11:35 PM, Sgt. Portelli responded to § 87(2)(b) to assist PO Pastula. At 11:43 PM, Sgt. Portelli resumed patrol. One individual was arrested by PO Pastula for § 87(2)(b) threats, and racial slurs. At 12:05 AM, Sgt. Portelli arrived at the PSA 7 stationhouse.

Sgt. Mark Portelli CCRB Witness Statement (Encl. 20a-b)

Sgt. Mark Portelli (§ 87(2)(b)) -old Caucasian male, 5'9", 220 lbs., with black hair and brown eyes) was interviewed at the CCRB on May 30, 2008. Sgt. Portelli was working from 5:50 PM on April 8, 2008 to 2:47 on April 9, 2008. He was working as the Operation Impact sergeant. He was dressed in uniform and was working with PO McAlear, who was his operator. He was using RMP 9213.

On April 9, 2008 at about 11:35 PM, Sgt. Portelli was notified that PO Pastula made a call for assistance from § 87(2)(b) and he responded to the location. PO Pastula approached Sgt. Portelli and told him that he and PO Soberal stopped § 87(2)(b) for the summonsable offense of blocking an entranceway into the building and into the elevator and that § 87(2)(b) refused to provide any identification, date of birth, or any other pedigree information. The officer additionally said that § 87(2)(b) made several racial epithets towards him. PO Pastula also told Sgt. Portelli that § 87(2)(b) resisted being placed under arrest and pushed one of the officers. § 87(2)(b) was already handcuffed by the time Sgt. Portelli arrived. Sgt. Portelli advised PO Pastula to arrest § 87(2)(b) and transport her to the stationhouse for processing. There were several young children near § 87(2)(b) but she did not say they belonged to her.

§ 87(2)(b) who stood in front of the elevators in the lobby, was shouting at the top of her lungs and was acting irrationally, screaming, "You have no reason to stop me. I'm going to get you for this." Sgt. Portelli did not remember if there were any other people in the elevator at this time, though he stated between five and ten civilians were in the lobby and that a small group of individuals gathered outside the building. Either PO Pastula or PO Soberal asked § 87(2)(b) if she could bring her ID to the stationhouse. § 87(2)(b) replied, "I'm not going to get you my ID." Sgt. Portelli did not hear § 87(2)(b) tell any of the officers that her ID was upstairs in her apartment and that she could get it for them. Sgt. Portelli did not observe any of the officers make any physical contact with either § 87(2)(b) or any other civilians near the elevator or inside the lobby, though one of the officers grabbed § 87(2)(b)'s arm to escort her to the RMP. Sgt. Portelli told § 87(2)(b) "You're in this situation because you refused to comply and provide your ID. We wouldn't have gotten to you being arrested if you would have just provided them with the ID." § 87(2)(b) cursed in response. Sgt. Portelli did not recall specifically what she said.

Sgt. Portelli, PO McAlear, and PO Pastula transported § 87(2)(b) to the PSA 7 stationhouse. None of the officers used any profane or inappropriate language while dealing with § 87(2)(b) on the scene, on the way to the stationhouse, or inside the stationhouse. PO Pastula did not speak to any of § 87(2)(b)'s relatives over the phone in the precinct in Sgt. Portelli's presence.

§ 87(2)(b) behaved in a belligerent manner in the stationhouse. Sgt. Portelli described her demeanor as "hot and cold": one minute she acted like a normal person and a second later she would start screaming and shouting obscenities. According to Sgt. Portelli, § 87(2)(b) seemed to be directing most of her anger at PO Pastula and called him a "white motherfucker." Sgt. Portelli decided to process § 87(2)(b)'s arrest in order to minimize any confrontation between her and PO Pastula. Sgt. Portelli asked § 87(2)(b) her pedigree information and fingerprinted her.

§ 87(2)(b) did not complain of any pain either on the scene or in the stationhouse. None of the officers were injured during the incident.

Police Documents

According to the Sprint for this incident, at 11:02 PM, a call was made about a non-emergency arrest and an impact sergeant was called to the location. At 11:09 PM, a female was placed under arrest. At 11:18 PM, the female was transported away from the location in a marked police car (Encl. 22a-b).

The PSA 7 Tour 3 roll call confirms that PO Pastula and PO Soberal were working on April 9th and were assigned to an Impact post (Encl. 24a-h). The PSA 7 command log contains an entry related to § 87(2)(b)'s arrest. According to the document, § 87(2)(b) was arrested for § 87(2)(b). Her physical and mental condition is listed as "apparently normal" (Encl. 21a).

Subject Officer CCRB History (Encl. 2a and 3a)

PO Pastula and PO Soberal have never been disciplined as a result of a CCRB complaint.

Civilian CCRB History (Encl. 4a-6a)

This is the first complaint for § 87(2)(b) and § 87(2)(b).

Civilian Conviction History

A search on the Booking and Arraignment Database System did not yield any results for § 87(2)(b) and § 87(2)(b).

Conclusions and Recommendations

Officer Identification

§ 87(2)(b) and § 87(2)(b) both identified PO Pastula by name and § 87(2)(b) specifically mentioned that PO Pastula was the officer who cursed at her, threatened her and § 87(2)(b) with force, made physical contact with § 87(2)(b) and refused to provide his name and shield number to § 87(2)(b) § 87(2)(g).

Undisputed Facts

It is undisputed that PO Pastula opened the door for § 87(2)(b) when she did not have her key. It is undisputed that PO Pastula made physical contact with § 87(2)(b) in the hallway of the lobby. It is not in dispute that PO Pastula refused to provide his name and shield number to § 87(2)(b) over the phone in the stationhouse.

Disputed Facts

It is disputed that PO Pastula told § 87(2)(b) "I don't fucking like you" as she entered the building. It is additionally disputed that PO Pastula told § 87(2)(b) "That's the fuck why I have a fucking warrant out for that fucking apartment." It is also in dispute that PO Pastula told § 87(2)(b) "Back the fuck off my partner two feet." It is disputed that PO Pastula motioned towards his weapon when dealing

with § 87(2)(b) and § 87(2)(b) and stated that he “felt like hitting” § 87(2)(b). It remains in dispute that PO Soberal grabbed § 87(2)(b) as she stood in the lobby elevator. It is further disputed that PO Pastula told § 87(2)(b) “Go back to the cell before I kick your ass” and told her to mind her “fucking business.” It is also disputed that PO Pastula told § 87(2)(b) “We’re taking you to the corner to fuck you up.”

Assessment of Evidence

§ 87(2)(g) § 87(2)(b) alleged that PO Pastula spoke rudely to her at various points during the incident, starting from the moment she entered her residence. According to § 87(2)(b) PO Pastula told her upon opening the front door, “I did it because of your kids because I don’t fucking like you.” § 87(2)(b) additionally stated that PO Pastula used profanity numerous other times. § 87(2)(b) stated that he also heard the officer make this comment. PO Pastula, on the other hand, denied using any profanity, though he admitted that he told § 87(2)(b) “I don’t like you” as she entered the lobby. PO Soberal, who stood next to PO Pastula in the lobby, corroborated PO Pastula’s testimony and stated that he did not hear the officer use any profanity either against § 87(2)(b) or § 87(2)(b) at this point in the building lobby. Sgt. Portelli, who was in the RMP with PO Pastula as § 87(2)(b) was being transported to the stationhouse, stated that he did not hear PO Pastula use any profane language with § 87(2)(b) or threaten her with the use of force. § 87(2)(g)

§ 87(2)(g)

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While PO Pastula and PO Soberal stated that § 87(2)(b) came out of the elevator by herself, the civilians claimed that PO Soberal grabbed her arm to force her to step out. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation Not Pleaded

§ 87(2)(b) stated that PO Soberal requested her identification in the lobby of the building. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation A: PO Brian Pastula spoke rudely to § 87(2)(b)

Allegation B: PO Brian Pastula threatened § 87(2)(b) and § 87(2)(b) with the use of force.

Allegation E: PO Brian Pastula spoke rudely to § 87(2)(b)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

While PO Pastula admitted that he may have told § 87(2)(b) to “back the fuck away” from PO Soberal, he stated that this statement

was made to diffuse a stressful situation and to insure that § 87(2)(b) did not threaten the life of PO Soberal by grabbing his weapon. § 87(2)(g)

Allegation C: PO Isaac Soberal used physical force against § 87(2)(b)

Allegation D: PO Brian Pastula used physical force against § 87(2)(b)

According to the Police Student's Guide Scale of Escalating Force, officers may employ firm grips to counteract verbal and minor physical resistance (Encl. 1a). § 87(2)(g)

Allegation F: PO Brian Pastula refused to provide his name and shield number to § 87(2)(b)

PO Pastula admitted that he did not provide his name and shield number over the phone to § 87(2)(b) the mother of § 87(2)(b) in the stationhouse because he did not know who § 87(2)(b) was. However, after subsequent contacts, § 87(2)(b) indicated that she wished to withdraw this allegation and confirmed that she was not coerced either by the CCRB or the NYPD in making her decision. § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: